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No. 425

In the Supreme Court of the United States

OCTOBER TERM, 1930

GROUP NO. 1 OIL CORPORATION, PETITIONER

v.

JAMES W. BASS, COLLECTOR OF INTERNAL REVENUE FOR THE UNITED STATES FOR THE FIRST DISTRICT OF TEXAS

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT

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MOTION TO ADVANCE

Comes now the respondent, by his counsel, the Solicitor General, and moves the Court to advance this case for hearing on February 24, 1931, or as soon thereafter as may be possible. In support of this motion the following statement is submitted:

This case presents for the first time before this Court the question whether or not the United States may impose an income tax upon profits realized from the sale of oil and gas produced pursuant to contract between a State and a taxpayer from lands owned by the former, a claim of exemption

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being asserted on the ground that the taxpayer is an instrumentality or agency of the State.

The State of Texas is granting leases from time to time upon various classes of lands comprising its public domain, and, as pointed out in its motion for leave to file a brief in this case as *amicus curiae* (p. 3), the decision of this Court will vitally affect the entire leasing policy of the State with reference to its public lands.

Precisely similar facts are presented and the same issue pending before the United States District Court for the Western District of Pennsylvania in *Big Lake Oil Co.* v. *Heiner,* No. 6159. Similar issues are pending with reference to oil and gas leases granted by the State of Oklahoma upon its public domain before the Court of Claims of the United States in *Marland* v. *United States,* No. K–322, and before the Court of Appeals of the District of Columbia in *Coronado Oil and Gas Co.* v. *Commissioner,* No. 5115. The same questions are pending before the Court of Appeals of the District of Columbia in *Bear Canon Coal Co.* v. *Commissioner,* No. 5051, and before the United States District Court for the District of North Dakota in *Hobart Iron Co.* v. *United States,* No. 1414, with reference to leases of mineral lands of the States of Colorado and North Dakota, respectively. The issue is therefore one of widespread importance. Its early disposition will not only have a decisive bearing upon pending cases, but will be of benefit to the various States in determining policies with

reference to the sale or leasing of public lands. See motion of State of Texas, above referred to, p. 10.

The petitioner and other lessees are now producing oil and gas upon lands in the State of Texas. This case and the *Big Lake Oil Co. case, supra,* particularly, involve substantial amounts. An additional assessment is pending in the present case. An early determination will be of material value to the petitioner and such other lessees, and also to the Government in the administration of the internal revenue laws.

It should be stated, however, that a primary question to be decided in determining this issue is whether a Texas statute providing that the property "shall be subject to taxation as is other property" is applicable and still in force. If this question is decided in the negative, then the question of the constitutionality of the tax asserted will be involved.

Opposing Counsel concur in this motion.

Respectfully submitted,

THOMAS D. THACHER,
Solicitor General.

JANUARY, 1931.

U. S. GOVERNMENT PRINTING OFFICE: 1931